

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION**

**IN RE:
PILGRIM'S PRIDE FAIR LABOR
STANDARDS ACT LITIGATION**

**MDL DOCKET NO. 1:07-cv-1832
ALL CASES**

CASE MANAGEMENT ORDER NO. 3

This Order shall govern all actions before this Court pursuant to the Judicial Panel on Multidistrict Litigation ("JPML") order of May 10, 2007, (Doc. 1), which transferred all related actions brought against Pilgrim's Pride Corporation ("Defendant") to this Court for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. This Case Management Order will apply to those actions already before this Court¹ and any additional related actions that are or become part of this multi-district litigation ("Coordinated Actions").

IT IS ORDERED as follows:

¹ The following actions have been centralized before this Court:
Aaron v. Pilgrim's Pride, Civ. No. 07-1082 (W.D. Ark.);
Antee v. Pilgrim's Pride, Civ. No. 06-0089 (E.D. Tex.);
Aguilar v. Pilgrim's Pride, No. 06-1673 (N.D. Ala.);
Benford v. Pilgrim's Pride, Civ. No. 06-2337 (N.D. Ala.);
Allen v. Pilgrim's Pride, Civ. No. 07-0019 (M.D. Ga.);
Brown v. Pilgrim's Pride, Civ. No. 07-0024 (M.D. Ga.);
Roebuck v. Pilgrim's Pride, Civ. No. 07-0052 (M.D. Ga.);
Price v. Pilgrim's Pride, Civ. No. 07-1156 (N.D. Ga.);
Hernandez v. Pilgrim's Pride, Civ. No. 07-0020 (N.D. Ga.);
Hammond v. Pilgrim's Pride, Civ. No. 07-0056 (N.D. Ga.);
Joiner v. Pilgrim's Pride, Civ. No. 07-0029 (W.D. Ky.);
Porter v. Pilgrim's Pride, Civ. No. 06-0259 (E.D. Tenn.).

I. CONSOLIDATION AND COORDINATION OF ACTIONS

- A. Pursuant to Federal Rule of Civil Procedure 42(a), the actions concerning Defendant's chicken processing facilities, each of which is brought as a collective action and each of which asserts similar claims under the FLSA, shall be consolidated for pre-trial proceedings and discovery.²
- B. All papers previously filed and served to date in any of the actions consolidated or coordinated herewith are deemed part of the record in MDL No. 1:07-CV-1832.

II. APPLICATION OF THIS ORDER TO SUBSEQUENTLY FILED OR TRANSFERRED CASES

- A. Counsel in the Coordinated Actions shall call to the attention of the Court the filing or transfer of any related action that might properly be consolidated or coordinated with the Coordinated Actions.
- B. This Case Management Order shall apply to each case filed in this Court or transferred or removed to this Court that are or become part of this multi-district litigation, unless a party objects to consolidation or coordination or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party. A party wishing to object, must file an application for relief, and this Court shall determine if it is appropriate to grant such application.

III. LITIGATION HOLD

- A. During the pendency of this litigation, or until further order of this Court, the parties

² The parties will consider at a later date whether these actions may be appropriately tried as a consolidated action in this forum. At this time, neither Plaintiffs nor Defendant waive their rights to remand pursuant to 28 U.S.C. § 1407. *See Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 36-37 (1988); Manual for Complex Litigation (4th ed.) § 20.14.

shall take reasonable steps to preserve all documents within their possession, custody, or control, including computer and electronically generated and stored information and materials such as computerized data and electronic mail, containing information that is relevant to or may lead to the discovery of information relevant to the subject matter of the pending litigation. Nothing in this paragraph is intended to limit, change, or otherwise modify the parties' obligations under the Federal Rules of Civil Procedure.

IV. ORGANIZATION OF PLAINTIFFS' COUNSEL

- A. **Plaintiffs' Liaison Counsel:** The Court has designated the following as Plaintiffs' Liaison Counsel:

Patton, Tidwell & Schroeder, L.L. P.

Kelly Tidwell
4605 Texas Boulevard
P.O. Box 5398
Texarkana, Texas 75505-5398
Phone: (903) 792-7080
Fax: (903) 792-8233

In addition to the liaison duties enumerated in this Court's Practice and Procedure Order entered July 3, 2007, (Doc.. 11-1), Plaintiffs' Liaison Counsel shall have responsibility to:

1. Ensure that all orders, pleadings, and papers filed with or issued by the Court are transmitted to all Plaintiffs' counsel in an efficient and timely manner;
2. Maintain and distribute to co-counsel and to Defendant's counsel an up-to-date service list;
3. Advise the Plaintiffs' Steering Committee and Plaintiffs' counsel of Local Rules;
4. Assist Plaintiffs' Lead Counsel in communications with the Court.

B. Plaintiffs' Lead Counsel: The Court has designated the following to act as Lead Counsel on behalf of all Plaintiffs, with the responsibilities hereinafter described:

Cohen, Milstein, Hausfeld & Toll, P.L.L.C.

Joseph M. Sellers
1100 New York Avenue, NW
Suite 500 West
Washington, DC 20005-3964
Tel: (212) 408-4600
Fax: (212) 408-4699

Lead Counsel's responsibilities shall include the following, in consultation with Plaintiffs' Steering Committee, on behalf of all plaintiffs in this matter:

1. To coordinate all proceedings, including preparing, structuring, and presenting pretrial and other management-related orders to the Court;
2. To encourage full cooperation and efficiency among all Plaintiffs' counsel;
3. To create any necessary committees and appoint committee chairs and otherwise delegate responsibilities for specific tasks in a manner to assure that the pretrial preparation for the various Plaintiffs is conducted effectively, efficiently, and economically;
4. To negotiate and execute agreements with all local counsel for Plaintiffs and/or other cooperating attorneys;
5. To determine the position of Plaintiffs on matters arising during these pretrial proceedings (after such consultation with other Plaintiffs' counsel as they deem appropriate) and present such position orally and/or in writing to the Court and all opposing parties;
6. To initiate, coordinate, and conduct discovery on behalf of Plaintiffs;

7. To consult with and employ experts, as necessary;
8. To delegate work responsibilities and monitor the activities of all Plaintiffs' counsel to assure that schedules are met and unnecessary expenditures of time and expense are avoided;
9. To call meetings of themselves and/or other Plaintiffs' counsel as appropriate or necessary from time to time;
10. To act as spokesperson at all Court hearings and conferences;
11. To conduct trial and post-trial proceedings;
12. To coordinate and communicate with Defendant's counsel with respect to matters addressed in this paragraph;
13. To initiate and conduct settlement negotiations with counsel for Defendant;
14. To allocate fees and reimbursement of disbursements amongst Plaintiffs' counsel;
15. To perform such other duties as are necessary in connection with these pretrial proceedings.

C. Plaintiffs' Steering Committee: Plaintiffs' Steering Committee shall consist of:

Cohen, Milstein, Hausfield & Toll, P.L.L.C.

Joseph M. Sellers
Jenny R. Yang
1100 New York Avenue, NW
Suite 500 West
Washington, DC 20005-3964
Tel: (212) 408-4600
Fax: (212) 408-4699

The Cochran Firm

Robert J. Camp
505 North 20th Street, Suite 825
Birmingham, AL 35203
Phone: (205) 244-1115
Fax: (205) 244-1171

William S. Hommel, Jr.

3304 S. Broadway
Suite 100
Tyler, TX 75707
Phone: (903) 596-7100
Fax: (903) 596-7464

Burkey, Harvey & Frankowski, LLC

Peter H. Burke
W. Todd Harvey
One Highland Place
2151 Highland Avenue, Suite 120
Birmingham, AL 35205
Tel: (205) 930-9091
Fax: (205) 930-9054

Law Offices of George Chandler

George Chandler
P.O. Box 340
Lufkin, TX 75902-0340
Phone: (936) 632-7778
Fax: (936) 632-1304

Maniklal & Dennis LLP

Preyesh K. Manikal
4360 Chamblee Dunwoody Road
Suite 428
Atlanta, GA 30341
Phone: (404) 875-0630
Fax: (678) 990-5887

Plaintiffs' Steering Committee, in consultation with Lead Counsel, shall be responsible for:

1. Coordination of all pre-trial discovery on behalf of Plaintiffs in all actions;
2. Coordination of motion practice on behalf of Plaintiffs in all actions;
3. Chairing and serving on committees and delegating work to various Plaintiffs' counsel where appropriate and ensuring that such work is conducted effectively, efficiently, and economically; and
4. Performing other duties as designated by Lead Counsel or authorized by order of the Court.

- D. No motion, request for discovery, or other pretrial proceedings shall be initiated, filed, or served by Plaintiffs, except by or with the authorization of Plaintiffs' Lead Counsel.
- E. The organizational structure of Plaintiffs' counsel established in paragraph IV. herein shall apply to Plaintiffs' counsel in the Coordinated Actions and any other coordinated or related action filed, which are or become part of this multi-district litigation.
- F. **Time Records.** Plaintiffs' counsel shall keep contemporaneous time records and shall periodically submit summaries or other records of time and expenses to Lead Counsel, or their designee. Those records shall reflect the date the legal service is rendered, the nature of the service rendered, and the number of hours expended.
- G. **Privileges Preserved.** No communication among Plaintiffs' Counsel shall be taken as a waiver of any privilege or protection to which they would otherwise be entitled.

V. FILING AND SERVICE OF DOCUMENTS

The Parties shall file and serve all papers in accordance with the Electronic Case Filing Policies and Procedures ("CM/ECF Procedures") of this Court. Defendant's service of papers by CM/ECF Procedures on Liaison and Lead Counsel constitutes service on Plaintiffs. Plaintiffs shall serve papers on Defendant by CM/ECF Procedures. To the extent that papers are filed under seal, the papers shall be served on Liaison and Lead Counsel.

IT IS SO ORDERED, this 30th day of October, 2007.

/s/ Harry F. Barnes
Harry F. Barnes
United States District Judge